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C O N F I D E N T I A L SECTION 01 OF 02 CARACAS 002199

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SUBJECT: PRESIDENT OF TSJ ELECTORAL CHAMBER RETIRES

CLASSIFIED BY: A/DCM ABELARDO A. ARIAS FOR REASONS 1.4 (D)

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SUMMARY  
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1. (U) THE PRESIDENT OF THE ELECTORAL CHAMBER OF THE SUPREME COURT (TSJ) ALBERTO MARTINI RETIRED FROM THE TSJ ON JULY 7, ALONG WITH JUSTICES RAFAEL HERNANDEZ AND RAFAEL PEREZ PERDOMO. MARTINI AND HERNANDEZ, BOTH MEMBERS OF THE ELECTORAL CHAMBER, WILL BE REPLACED BY PRO-CHAVEZ ALTERNATES. THE TSJ NOMINATIONS COMMITTEE OF THE NATIONAL ASSEMBLY (NA) CLOSED THE NOMINATIONS PROCESS ON JULY 1, WITH SEVERAL HIGH PROFILE CHAVISTAS INCLUDED ON THE LIST. FRANCISCO CARRASQUERO, PRESIDENT OF THE NATIONAL ELECTORAL COUNCIL (CNE) WAS THE MOST CONTROVERSIAL OF THE NOMINEES, ALONG WITH MVR DEPUTIES LUIS VELAZQUEZ ALVARAY, EDUARDO FRANCESCHI AND OMAR MEZZA. END SUMMARY.

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ELECTORAL CHAMBER CHANGES HANDS  
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3. (U) THE PRESIDENT OF THE ELECTORAL CHAMBER OF THE SUPREME COURT (TSJ), ALBERTO MARTINI, RETIRED ON JULY 7, ALONG WITH JUSTICE RAFAEL HERNANDEZ AND RAFAEL PEREZ PERDOMO. BOTH MARTINI AND HERNANDEZ WILL BE REPLACED BY PRO-CHAVEZ ALTERNATES. THE MORAL COUNCIL (ATTORNEY GENERAL, CONTROLLER GENERAL, AND HUMAN RIGHTS OMBUDSMAN, SITTING IN COMMITTEE) ACCUSED MARTINI AND HERNANDEZ OF A "GRAVE FAULT" ON JUNE 18, FOR WHICH EACH FACED THE POSSIBILITY OF SUSPENSION. PEREZ LEAVES THE TSJ'S PENAL CHAMBER. HIS REPLACEMENT IS NOT CLEAR, WITH A PRO-OPPOSITION ALTERNATE AND A PRO-CHAVEZ ALTERNATE DISPUTING THE POSITION. IF PEREZ IS REPLACED BY A PRO-CHAVEZ ALTERNATE, THE PRESENT CORRELATION OF FORCES IN THE PENAL CHAMBER, WITH TWO OPPOSITION JUSTICES AND ONE PRO-CHAVEZ JUSTICE, WOULD BE REVERSED.

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244 NOMINEES  
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3. (U) THE TSJ NOMINATIONS COMMITTEE OF THE NATIONAL ASSEMBLY (NA) CLOSED THE NOMINATIONS PROCESS ON JULY 1, WITH SEVERAL HIGH PROFILE CHAVISTAS INCLUDED IN THE LIST. THE NA SET UP THE COMMITTEE TO ACCEPT NOMINATIONS FOR THE 12 NEW SUPREME COURT SEATS, ESTABLISHED UNDER THE NEW TSJ LAW AND FOR THE 32 ALTERNATE SEATS ON THE TSJ. (NOTE: AT LEAST ONE MORE JUDGE WILL BE CHOSEN TO REPLACE FRANKLIN ARRIECHE, RECENTLY REMOVED BY THE NA UNDER THE NEW LAW, AND SEVERAL MORE MAY BE NAMED TO REPLACE RETIRING JUSTICES. END NOTE.) 244 PEOPLE WERE NOMINATED IN ALL. AND THERE ARE NOMINEES FROM THE OPPOSITION IN ADDITION TO CHAVISTAS. MANY OF THE NOMINEES ARE FIGURES WHO HAVE SERVED IN ONE OF CHAVEZ' PREVIOUS GOVERNMENTS, OR RULED IN FAVOR OF CHAVEZ' POSITIONS ON CONTROVERSIAL DECISIONS AT LOWER LEVELS OF THE JUDICIAL SYSTEM. ACCORDING TO NA DEPUTY CILIA FLORES (MVR), THE NA WILL TAKE THE FINAL VOTE ON THE NEW JUSTICES ON AUGUST 12, AND THE SWEARING IN OF THE NEW JUSTICES WOULD BE AUGUST 13. (NOTE: THE NEW TSJ LAW ALLOWS THE TSJ JUSTICES TO BE CHOSEN BY THE NA WITH A SIMPLE MAJORITY AFTER THREE ATTEMPTS TO GET THE TWO-THIRDS MAJORITY STIPULATED IN THE CONSTITUTION THE NOMINATIONS COMMITTEE EXPECTS TO BE ABLE TO TAKE THAT FOURTH VOTE ON AUGUST 12. END NOTE.)

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CARRASQUERO AMONG NOMINEES  
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4. (U) FRANCISCO CARRASQUERO CURRENTLY THE PRESIDENT OF THE NATIONAL ELECTORAL COUNCIL (CNE), IS THE MOST CONTROVERSIAL NOMINEE, BECAUSE OF HIS ROLE OVERSEEING THE RECALL REFERENDUM. JUSTICE ARRIECHE TOLD REPORTERS IT WAS INAPPROPRIATE THAT CARRASQUERO WOULD BE DEPENDENT ON THE VOTES OF PRO-CHAVEZ DEPUTIES TO BECOME A TSJ JUSTICE, WHILE OVERSEEING A RECALL REFERENDUM AGAINST CHAVEZ. FLORES CONTRADICTED ARRIECHE, SAYING THAT ALL CITIZENS HAVE A RIGHT TO BE NOMINATED, AND THAT IF CARRASQUERO WERE NAMED TO THE

LL BE READY."

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MVR DEPUTIES  
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15. (U) NA DEPUTY LUIS VELAZQUEZ ALVARAY (MVR) WAS ALSO NOMINATED. VELAZQUEZ WAS RESPONSIBLE FOR PUSHING THE TSJ LAW THROUGH THE NA. THE DEPUTY WENT BEFORE A NOTARY TO DEMONSTRATE FORMALLY THAT HE WOULD NO LONGER PARTICIPATE IN PARTISAN POLITICS, THOUGH HE INTENDS TO REMAIN ACTIVE IN THE NA TO PUSH THROUGH MORE JUDICIAL REFORM LEGISLATION. HE ASSURED REPORTERS THAT FROM NOW ON HE WILL VOTE ACCORDING TO HIS CONSCIENCE, "AND NOT ACCORDING TO PARTY SYMPATHIES OR ALLEGIANCES." OPPOSITION PRIMERO JUSTICIA DEPUTY GERARDO BLYDE REJECTED THIS ARGUMENT, SAYING IT WAS "PUBLIC AND NOTORIOUS" THAT VELAZQUEZ ALONG WITH MVR DEPUTIES LUIS FRANCESCHI AND OMAR MEZZA, WERE FOLLOWERS OF CHAVEZ. BLYDE SAID THERE IS NO LEGAL PROHIBITION AGAINST POLITICIANS HOLDING OFFICE BECOMING TSJ JUSTICES, BUT SAID THEY WOULD VIOLATE THE CONSTITUTIONAL REQUIREMENT THAT TSJ JUSTICES BE IMPARTIAL.

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CHAVISTA REACTION  
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16. (U) GOV VICE PRESIDENT JOSE VICENTE RANGEL DISMISSED THE CRITICISM OF THE NOMINATIONS BY SAYING, "POLITICS IS PRESENT IN EVERYTHING. LET'S NOT BE HYPOCRITES." HE SAID ANYONE COULD BE A TSJ JUSTICE, AS LONG AS THEY MET THE CRITERIA, AND THAT THE SELECTION PROCESS WOULD DETERMINE WHICH CANDIDATES WERE BEST QUALIFIED. FLORES, SAID THE OPPOSITION HAD NO RIGHT TO CRITICIZE ANYONE, SINCE THEY HAD NOT PARTICIPATED IN THE NOMINATIONS COMMITTEE (NOTE: THE OPPOSITION PARTIES BOYCOTTED THIS COMMITTEE BECAUSE THEY DO NOT ACCEPT THE TSJ LAW WHICH AUTHORIZED THE NOMINATING PROCESS. END NOTE.)

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COMMENT  
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17. (C) THE RETIREMENT OF MARTINI AND HERNANDEZ GIVES CHAVEZ FULL CONTROL OF THE ELECTORAL CHAMBER, AND THE PLENARY CHAMBER WITHOUT RECOURSE TO THE NEW TSJ LAW. IF PEREZ IS REPLACED BY A CHAVISTA, IT WILL GIVE CHAVEZ CONTROL OF THE PENAL CHAMBER AS WELL. BOTH ARE CRITICAL BLOWS TO THE OPPOSITION, WITH THE JUSTICES WHO HAVE STOOD UP TO CHAVEZ RETIRING QUIETLY ON THE EVE OF THE REFERENDUM, AND THEREBY GIVING CHAVEZ A TREMENDOUS TOOL IN THE EVENT HE LOOSES THE REFERENDUM.

18. (C) THE TSJ NOMINATION PROCESS IS ONE MORE INDICATION OF THE COLLAPSE OF INSTITUTIONAL INDEPENDENCE UNDER CHAVEZ. NAMING CARRASQUERO, VELAZQUEZ, MEZZA AND FRANCESCHI TO THE TSJ WILL FURTHER ERODE THE INSTITUTION'S CREDIBILITY.

SIPDIS  
ADDITIONALLY, MANY OF THE TSJ NOMINEES FROM THE LOWER COURTS ARE ALSO CLEARLY IDENTIFIED WITH CHAVEZ THROUGH CONTROVERSIAL CASES THEY HAVE DEALT WITH, OR ARE POLITICAL APPOINTEES FROM THE PAST. LOYALTY IS LIKELY TO BE GIVEN THE GREATEST WEIGHT IN THE CHOICE OF THE NEW JUSTICES.  
MCFARLAND

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